

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

PETER STROJNIK,	)	Civ. No. 19-00077 SOM-KJM
	)	
Plaintiff,	)	ORDER REGARDING PROPRIETY OF
	)	PLAINTIFF'S FILING OF FIRST
vs.	)	AMENDED COMPLAINT
	)	
(1) KAPALUA LAND COMPANY LTD	)	
dba THE KAPALUA VILLAS MAUI	)	
(Defendant 1); (2) RICHARD	)	
RAND and MARR JONES WANG, a	)	
Limited Liability Partnership	)	
(Defendant 2),	)	
	)	
Defendants.	)	
_____	)	

**ORDER REGARDING PROPRIETY OF PLAINTIFF'S  
FILING OF FIRST AMENDED COMPLAINT**

Plaintiff Peter Strojnik, proceeding *pro se*, filed a First Amended Complaint ("FAC") on April 29, 2019. ECF No. 25. The FAC removes Kapalua Land Company ("KLC") as a defendant and adds Outrigger Hotels and Resorts in its place, but it is otherwise largely identical to Strojnik's original complaint filed on February 13, 2019 ("OC").<sup>1</sup> Compare ECF No. 1 with ECF No. 25. The court questions whether Strojnik was permitted to file an amended complaint at this stage in the proceedings without leave of court.

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<sup>1</sup> On April 26, 2019, Strojnik and KLC filed a stipulation dismissing with prejudice all claims against KLC. ECF No. 22.

Under Rule 15(a) of the Federal Rules of Civil Procedure, pleadings may be amended before trial under the following circumstances:

(1) *Amending as a Matter of Course*. A party may amend its pleading once as a matter of course within:

(A) 21 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) *Other Amendments*. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

It does not appear that any of these circumstances apply here. Many more than 21 days have passed since the service of the OC, as well as service of KLC's Motion for Summary Judgment and of Defendants Richard Rand and Marr Jones & Wang's Motion to Dismiss. See ECF No. 5 (proof of service of OC to Kapalua Land Company dated February 22, 2019), ECF No. 6 (proof of service of OC to Rand and Marr Jones & Wang dated February 25, 2019), ECF No. 8-3 (certificate of service of Motion for Summary Judgment dated March 15, 2019), ECF No. 11-6 (certificate of service of Motion to Dismiss dated March 15, 2019). Rand and Marr Jones

& Wang further stated that Strojnik did not obtain their consent prior to filing the FAC. ECF No. 28.

The court therefore asks Strojnik to be prepared to explain at the hearing on May 13, 2019, at 9:45 a.m., why he was permitted to proceed under the FAC. The court may dismiss the FAC at the hearing if it decides that such action is appropriate.

Strojnik may, of course, moot out this issue by withdrawing the FAC and filing a motion seeking leave of court to file a First Amended Complaint. If such a motion were granted, he could then proceed subject to any rulings preceding the filing of an amended pleading.

The remainder of the hearing will address Rand and Marr Jones & Wang's Motion to Dismiss. Rand and Marr Jones & Wang have stated that their motion applies equally to the FAC, see ECF No. 28, so the court will hear arguments on the Motion to Dismiss regardless of its decision on the propriety of Strojnik's filing of the FAC.

Strojnik may participate in the hearing by phone given his location in Arizona. If he wishes to participate by phone, Strojnik should contact courtroom manager Theresa Lam at (808) 541-3577 to make arrangements.

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IT IS SO ORDERED.

DATED: Honolulu, Hawaii, May 1, 2019.



/s/ Susan Oki Mollway

Susan Oki Mollway  
United States District Judge

Peter Strojnik v. Kapalua Land Company, et al., Civ. No. 19-  
00077 SOM-KJM; ORDER REGARDING PROPRIETY OF PLAINTIFF'S FILING  
OF FIRST AMENDED COMPLAINT.